

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7260**

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ANTHONY DYE,

Plaintiff - Appellant,

versus

JON E. OZMINT, Commissioner; SOUTH CAROLINA  
DEPARTMENT OF CORRECTIONS,

Defendants - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Anderson. David C. Norton, District Judge. (CA-  
03-2109-18BJ)

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Submitted: October 15, 2003

Decided: November 25, 2003

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Before LUTTIG, MOTZ, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Anthony Dye, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Anthony Dye appeals the district court's order accepting the recommendation of the magistrate judge and dismissing his 42 U.S.C. § 1983 (2000) complaint without prejudice for failure to exhaust administrative remedies. The district court properly required exhaustion of administrative remedies under 42 U.S.C. § 1997e(a) (2000). Because Dye did not demonstrate to the district court that he had exhausted administrative remedies or that such remedies were not available, the court's dismissal of the action without prejudice was not an abuse of discretion. Accordingly, we deny Dye's motion for preparation of transcripts, deny Dye's motion for appointment of counsel, and affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED